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10/625,726	07/24/2003	Fumihiro Funazaki	PA4955US	8053
21254	7590	11/15/2007	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC			CHIO, TAT CHI	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/625,726	FUNAZAKI, FUMIHIRO
	Examiner	Art Unit
	Tat Chi Chio	2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 August 2007.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 8/24/2007 have been fully considered but they are not persuasive.

The applicant argues that Kikuchi does not teach or suggest an image reproduction apparatus which includes "reproduction control means for reproducing the first image data in the first image area in the case where the first image area has been selected and for reproducing the second image data in the second image area in the case where the second image area has been selected."

In response, the examiner respectfully disagrees. Kikuchi teaches a display unit in Fig. 40 and the setup key to change aspect ratio (col. 45, lines 20-25). The first aspect ratio is equivalent to the first image area and the second aspect ratio is equivalent to the second image area since different aspect ratio produces different image size. Therefore, when the user chooses the first aspect ratio with the setup key, the first image data will be displayed in the first image area of the display in Fig. 40 and when the user chooses the second aspect ratio with the setup key, the second image data will be displayed in the second image area of the display in Fig. 40.

The applicant argues that Kikuchi does not teach or suggest an image recording apparatus which includes "display control means for calculating a first data size regarding the first image data and a second data size regarding the second image data, and for displaying a screen comprising the first data size and the second data size on display means."

In response, the examiner respectfully disagrees. Kikuchi teaches MPU in Fig. 40 and the setup key to change aspect ratio (col. 45, lines 20-25). When the user changes the image size with the setup key from one size to another, the MPU of the apparatus has to calculate and adjust the image size that the user has chosen. Therefore, calculation takes place during the process of changing the image size.

The applicant argues that Kikuchi does not teach or suggest the display unit may reproduce first image data in the first image area in the case where the first image area has been selected (e.g. selected by a user) and for reproducing the second image data in the second image area in the case where the second image area has been selected (e.g. selected by a user).

In response, the examiner respectfully disagrees. Kikuchi teaches a display unit in Fig. 40 and the setup key to change aspect ratio (col. 45, lines 20-25). The first aspect ratio is equivalent to the first image area and the second aspect ratio is equivalent to the second image area since different aspect ratio produces different image size. Therefore, when the user chooses the first aspect ratio with the setup key, the first image data will be displayed in the first image area of the display in Fig. 40 and when the user chooses the second aspect ratio with the setup key, the second image data will be displayed in the second image area of the display in Fig. 40.

The applicant argues that Kikuchi does not teach or suggest the setup key is used to calculate a first data size regarding the first image data and a second data size regarding the second image data.

In response, the examiner respectfully disagrees. Kikuchi teaches MPU in Fig. 40 and the setup key to change aspect ratio (col. 45, lines 20-25). When the user changes the image size with the setup key from one size to another, the setup key causes the MPU of the apparatus to calculate and adjust the image size that the user has chosen. Therefore, calculation takes place during the process of changing the image size.

The applicant argues that the setup key does not display a screen including the first data size and the second data size on display means.

In response, the examiner respectfully disagrees. In the previous office action, the examiner provided an explicit and clear explanation "the "Setup" key is used to set the screen size, which means the image size can be set with the "Setup" key. When the image size is set from one size to another, image size is calculated. After the image size is calculated, it is displayed on the display as desired." The display here is referred to the display unit in Fig. 40 as indicated in page 4 of the previous office action.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The

definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claims 6 and 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory matter as follows. Claims 6 and 11 define a programmable storage medium embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of descriptive material to be realized"). That is, the scope of the presently claimed a programmable storage medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4-8, 10, 11, and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kikuchi et al. (US 6,553,180 B1).

**Consider claims 1, 5, and 6,** Kikuchi et al. teach an image reproduction apparatus for reproducing first image data and second image data recorded in a recording medium having a first image area storing, the, first image data for computer processing and a second image area storing the second image data for digital video equipment using the first image data as a source, the image reproduction apparatus comprising:

- display control means for displaying on display means a selection screen for receiving selection of the first image area or the second image area ( MPU of Fig. 40);
- selection reception means for receiving the selection of the first image area or the second image area in the selection screen (Key Input/Remote Controller Receiver of Fig. 40); and

- reproduction control means for reproducing the first image data in the first image area in the case where the first image area has been selected and for reproducing the second image data in the second image area in the case where the second image area has been selected (Display Unit of Fig. 40).

**Consider claim 2**, Kikuchi et al. teach an image reproduction apparatus, wherein the recording medium is a DVD-type recording medium and the second image data are image data of a DVD-Video format (Fig. 1).

**Consider claim 4**, Kikuchi et al. teach an image reproduction apparatus, wherein the selection reception means is means for receiving the selection of the first image area or the second image area by an operation of a remote controller (Key Input/Remote Controller Receiver of Fig. 40).

**Consider claims 7, 10, and 11**, Kikuchi et al. teach an image recording apparatus for recording, in a recording medium, first image data for computer processing and second image data for digital video equipment using the first image data as a source, the image recording apparatus comprising: display control means for calculating a first data size regarding the first image data and a second data size regarding the second image data, and for displaying the first data size and the second data size on display means (the “Setup” key is used to set the screen size, which means the image size can be set with the “Setup” key. When the image size is set from one size to another, image size is calculated. After the image size is calculated, it is displayed on the display as desired. Col. 45, lines 20-25).

**Consider claim 8,** Kikuchi et al. teach an image recording apparatus, wherein the recording medium is a DVD-type recording medium and the second image data are image data of a DVD-Video format (Fig. 1).

**Consider claim 15,** Kikuchi et al. teach the image reproduction apparatus, wherein said image reproduction apparatus comprises a digital video disc (DVD) player (Fig. 39 shows that the reproduction apparatus is used to play a DVD-RAM or DVD-R disc, therefore, the reproduction apparatus is a DVD player) and said display means comprises a television connected to said DVD player (col. 35, lines 31-37).

**Consider claim 16,** Kikuchi et al. teach an image reproduction apparatus further comprising judging means for determining whether said recording medium comprises said first and second image areas (col. 45, lines 20-25, when the user press the Setup key to set the screen size/aspect ratio, the system judges whether changing the screen size/aspect ratio is possible. If changing the screen size/aspect ratio is possible, then the system shows that this option is available, and if it is not possible, then the system shows that this option is not available).

**Consider claim 17,** Kikuchi et al. teach an image reproduction apparatus, wherein said display control means displays said selection screen on said display means if said judging means determines that said recording means comprises said first and second image area (col. 45, lines 20-25, when the user presses the Setup key to set the screen size/aspect ratio, the system judges whether changing the screen size/aspect ratio is possible. If changing the screen size/aspect ratio is possible, then

the system shows that this option is available, and if it is not possible, then the system shows that this option is not available).

**Consider claim 18,** Kikuchi et al. teach an image reproduction apparatus, wherein if said second image area is selected, said display control means controls said display means to display a data selection screen for displaying one of a title and a thumbnail image of an image data set stored in said second image data (Fig. 69 shows a plurality of thumbnail images).

**Consider claim 19,** Kikuchi et al. teach an image reproduction apparatus, wherein said selection of the first image area or the second image area is received in said selection reception means when said user inputs said selection using a controller for controlling said image reproduction apparatus (Fig. 43 shows a remote controller for controlling the image reproduction apparatus shown in Fig. 42).

**Consider claim 20,** Kikuchi et al teach an image recording apparatus further comprising image data size correcting means for correcting a size of said first and second image data (col. 45, lines 20-25, the user presses the Setup key to set the correct screen size/aspect ratio in the setup menu), wherein said display control means controls said display means to display a confirmation screen for allowing a user to confirm a size of said first and second image data (col. 45, lines 20-25, after the user presses the Setup key to set the screen size/aspect ratio in the setup menu, the system needs user's input to confirm whether he/she really wants to change the screen size/aspect ratio. At that point, the user is required to press the confirmation key to confirm the setting (col. 43, lines 5-12)), and wherein said image data size correcting

means corrects a size of said first and second image data in response to a user input in response to said confirmation screen (col. 45, lines 20-25 and col. 43, lines 5-12, after the user presses the confirmation key, the system changes the screen size/aspect ratio).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 6,553,180 B1).

**Consider claims 3 and 9,** Kikuchi et al. fail to teach an image recording apparatus, wherein the recording medium is a CD-type recording medium and the second image data are image data of a Video-CD format.

The examiner takes official notice that the recording medium is a CD-type recording medium and the second image data are image data of a Video-CD format. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use CD-type recording medium and Video-CD format for the second image data since it is common, in the art, to use Video-CD format.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 6,553,180 B1) in view of Ando et al. (US 7,286,746 B1).

**Consider claim 12,** Kikuchi et al. teach all the limitation in claim 1 and an image reproduction apparatus wherein said second image area comprises a directory area (Fig. 9 shows a directory) comprising a file name of image data sets (Fig. 9 shows file name of image data sets) stored in said second image area, allocation information for accessing said image data sets (Fig. 9 is a directory that shows the allocation information for accessing image data sets), and a coding method (col. 12, lines 49-62) but do not explicitly teach an encryption key for coding.

Ando et al. teach an image reproduction apparatus wherein said second image area comprises a directory area comprising an encryption key for coding (Fig. 8 shows the encrypting regions). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an encryption key in a directory area to facilitate a more efficient extraction of the image data from the recording medium when performing reproduction of the image data.

6. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 6,553,180 B1) in view of Terada (US 2003/0072561 A1).

**Consider claim 13,** Kikuchi et al. teach all the limitation in claim 2 but do not explicitly teach an image reproduction apparatus wherein said second image area comprises an image data set comprising repetitive image generated by resizing a frame of said image data set according to DVD-Video format.

Terada teaches an image reproduction apparatus wherein said second image area comprises an image data set comprising repetitive image generated by resizing a frame of said image data set according to DVD-Video format ([0034]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include repetitive image generated by resizing a frame according to DVD-Video format to allow playback of each frame as a moving picture (slideshow type moving picture).

**Consider claim 14,** Terada further teaches an image reproduction apparatus wherein said second image area comprises an image data set comprising repetitive images generated by resizing a frame of said image data set according to Video-CD format ([0036]).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tat Chi Chio whose telephone number is (571) 272-9563. The examiner can normally be reached on Monday - Thursday 8:30 AM-6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TCC

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